

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14824US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Electronically Filed on April 7, 2009

Serial No. 10/675,386

Filed: September 30, 2003

For: SECURE LEGACY MEDIA
PERIPHERAL ASSOCIATION
WITH AUTHENTICATION IN A
MEDIA EXCHANGE NETWORK

Examiner: Thanhnga B. Truong

Group Art Unit: 2435

Confirmation No. 6836

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-31 of the present application. The Applicants request a one month extension of time in which to respond. Thus, the period for response runs until April 9, 2008. This Appeal Brief is being filed with a Notice of Appeal.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Broadcom Corporation, having a place of business at 16215 Alton Parkway, Irvine, California 92619.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

Not applicable.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes claims 1-31. The Applicants identify claims 1-31 as the claims that are being appealed. The text of the claims involved in this Appeal, namely, claims 1-31, is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

Subsequent to the final rejection of claims 1-31 mailed December 9, 2008, the Applicants filed an Amendment.¹ This Amendment was subsequently entered.²

¹ See February 10, 2009 Amendment Under 37 C.F.R. § 1.116.

² See February 25, 2009 Advisory Action.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent claim 1 recites the following:

A method for secure access and communication of information in a distributed media network,³ the method comprising:

detecting, at a first geographic location,⁴ when a legacy media peripheral⁵ is connected to one or both of a PC⁶ and a media processing system⁷ at said first geographic location within the distributed media network;⁸

associating⁹ at least one identifier with said legacy media peripheral,¹⁰ wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location;¹¹ and

utilizing said at least one identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.¹²

Dependent claim 2 recites the following:

The method according to claim 1, comprising requesting said at least one legacy media peripheral identifier and at least one identifier of a user utilizing said legacy

³ See present application, *e.g.*, at page 4, lines 2-7.

⁴ See *id.*, *e.g.*, at page 10, lines 1-7, Figure 1, ref. 104.

⁵ See *id.*, *e.g.*, at page 10, lines 1-7, page 14, lines 5-15, Figure 1, ref. 103.

⁶ See *id.*, *e.g.*, at page 10, lines 1-7, Figure 1, ref. 101.

⁷ See *id.*, *e.g.*, at page 10, lines 1-7, Figure 1, ref. 102.

⁸ See *id.*, *e.g.*, at page 4, lines 4-7.

⁹ See *id.*, *e.g.*, at page 15, line 28 to page 16, line 7.

¹⁰ See *id.*, *e.g.*, at page 4, lines 7-9.

¹¹ See *id.*, *e.g.*, at page 15, line 28 to page 18, line 14.

¹² See *id.*, *e.g.*, at page 4, lines 7-9.

media peripheral.¹³

Independent claim 11 recites the following:

A machine-readable storage having stored thereon,¹⁴ a computer program having at least one code section for secure access and communication of information in a distributed media network,¹⁵ the at least one code section being executable by a machine for causing the machine to perform steps comprising:

detecting, at a first geographic location,¹⁶ when a legacy media peripheral¹⁷ is connected to one or both of a PC¹⁸ and a media processing system¹⁹ at said first geographic location within the distributed media network;²⁰

associating²¹ at least one identifier with said legacy media peripheral,²² wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location;²³ and

utilizing said at least one identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.²⁴

¹³ See *id.*, e.g., at page 4, lines 9-11. **Note, claims 12 and 22 recite similar limitations.**

¹⁴ See *id.*, e.g., at page 4, lines 26-27

¹⁵ See *id.*, e.g., at page 4, line 26 to page 5, line 2.

¹⁶ See *id.*, e.g., at page 10, lines 1-7, Figure 1, ref. 104.

¹⁷ See *id.*, e.g., at page 10, lines 1-7, page 14, lines 5-15, Figure 1, ref. 103.

¹⁸ See *id.*, e.g., at page 10, lines 1-7, Figure 1, ref. 101.

¹⁹ See *id.*, e.g., at page 10, lines 1-7, Figure 1, ref. 102.

²⁰ See *id.*, e.g., at page 4, lines 4-7.

²¹ See *id.*, e.g., at page 15, line 28 to page 16, line 7.

²² See *id.*, e.g., at page 4, lines 7-9.

²³ See *id.*, e.g., at page 15, line 28 to page 18, line 14.

²⁴ See *id.*, e.g., at page 4, lines 7-9.

Independent claim 21 recites the following:

A system for secure access and communication of information in a distributed media network,²⁵ the system comprising:

at least one processor operable to detect, at a first geographic location,²⁶ when a legacy media peripheral²⁷ is connected to one or both of a PC²⁸ and a media processing system at said first geographic location within the distributed media network;²⁹

said at least one processor is operable to associate³⁰ at least one identifier with said legacy media peripheral,³¹ wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location;³² and

said at least one processor is operable to utilize said at least one identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.³³

²⁵ See *id.*, e.g., at page 5, lines 3-4.

²⁶ See *id.*, e.g., at page 10, lines 1-7, Figure 1, ref. 104.

²⁷ See *id.*, e.g., at page 10, lines 1-7, page 14, lines 5-15, Figure 1, ref. 103.

²⁸ See *id.*, e.g., at page 10, lines 1-7, Figure 1, ref. 101.

²⁹ See *id.*, e.g., at page 5, lines 4-6.

³⁰ See *id.*, e.g., at page 15, line 28 to page 16, line 7.

³¹ See *id.*, e.g., at page 5, lines 7-8.

³² See *id.*, e.g., at page 15, line 28 to page 18, line 14.

³³ See *id.*, e.g., at page 5, lines 7-9.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

- Claims 1-31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2003/0072027 ("Haines") in view of U.S. 6,058,106 ("Cudak") and U.S. 6,839,848 ("Kirkoshi").

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

As noted in the Manual of Patent Examining Procedure, "[t]o establish *prima facie* obviousness of a claimed invention, **all the claim limitations** must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." See MPEP at 2143.03. Further, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA)." See *id.* (emphasis added). Thus, the MPEP is clear that words of a claim cannot be ignored or disregarded during examination. Instead, **all words in a claim** must be considered during examination.

Moreover, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, **the applicant is under no obligation to submit evidence of nonobviousness.**

See MPEP at § 2142 (emphasis added).

I. The Proposed Combination Does Not Render Claims 1-31 Unpatentable

With respect to claim 1, the Applicants submit that the combination of Haines, Cudak and Kirkoshi does not describe, teach or suggest “establishing at least one identifier associated with said legacy media peripheral, wherein said established at least one identifier is used to validate said legacy media peripheral for use at said first geographic location.” As shown below, the Office Action relies on Haines as disclosing these limitations. However, Haines (or the other cited references) does not describe, teach or suggest all of these limitations.

In particular, the Office Action cites Haines at ¶¶ [0009] and [0085]-[0086] as disclosing these limitations. See December 9, 2008 Office Action at page 3. The Advisory Action relies on the exact same portions of Haines. See February 25, 2009 Advisory Action at page 2. Thus, the Applicants will address each of these cited paragraphs and demonstrate that they do not describe, teach or suggest the relevant claim limitations.

First, Haines states the following:

In accordance with another aspect of the present invention, an article of manufacture includes a computer usable medium having computer readable code embodied therein. The computer readable code is configured to cause a processor to determine that a status change has occurred in the peripheral device, **combine a unique device identifier relevant to the peripheral device with the status change to form an electronic message** and transmit the electronic message from an embedded web server contained in the peripheral device across a firewall.

Haines at ¶ [0009] (emphasis added). As shown above, this cited portion of Haines

discloses that a “unique device identifier” is combined with a status change to form an electronic message. However, neither this cited portion, nor the remainder, of Haines describes, teaches or suggests “associating at least one identifier with said legacy media peripheral, wherein said at least one identifier **is used to validate said legacy media peripheral for use at said first geographic location**,” as recited in claim 1.

Next, Haines states the following:

The embedded web server 26 of FIG. 1 then combines a device identifier with the detected consumable or maintenance threshold status in a step S62. In one embodiment, the device identifier comprises a serial number of the peripheral device. In this embodiment, the vendor has previously associated this serial number with other data, such as the identity and physical address of the owner or user of the peripheral device.

In one embodiment, the device identifier comprises an account number that was assigned to the peripheral device during the process P2. In one embodiment, the account number was stored in the embedded web server 26 of the peripheral device 14. In one embodiment, a group of similar devices having a common user or owner, or maintainer, may share an account number.

Id. at [0085]-[0086]. This portion of Haines discloses that a device identifier, which includes a serial number of a peripheral device, is combined with a detected consumable or maintenance threshold status. The serial number is previously associated with the identity and physical address of a user of the device. The device identifier may also include an account number, which may be shared by a group of similar devices.

While ¶¶ [0085]-[0086] of Haines disclose that the serial number may be

associated with the identity and address of a user, there is nothing in these paragraphs nor the rest of Haines that describes, teaches or suggests that **the device identifier is used to validate use of the device *at a particular location***, as recited in claim 1, as opposed to a particular user. That is, neither the cited portions, nor the remainder, of Haines describes, teaches or suggests “associating at least one identifier with said legacy media peripheral, wherein said at least one identifier **is used to validate said legacy media peripheral for use at said first geographic location**,” as recited in claim 1.

Moreover, the Office Action does not show that either Cudak or Kirikoshi makes up for the deficiencies of Haines noted above. Thus, the Applicants respectfully submit that the Office Action has not shown that the proposed combination of references describes, teaches or suggests all the limitations of claim 1. For at least these reasons, a *prima facie* case of obviousness has not been established with respect to claim 1 or the claims that depend therefrom.

In response to the Applicants, the Final Office Action states the following:

Applicant has argued that:

The combination of Haines, Cudak and Kirikoshi does not describe, teaches or suggest “associating at least one identifier with said legacy media peripheral, wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location.

Examiner respectfully disagrees with the applicant and still maintains that:

The combination of teaching between Haines, Cudak and Kirikoshi does teach the claimed subject matter that has been addressed in previous action and repeated here again. The new proposed amendment does not change the meaning or merely change the scope of the limitations.

See December 9, 2008 Office Action at page 2. The Advisory Action repeats this statement verbatim. See February 25, 2009 Advisory Action at page 2.

Again, however, the proposed combination of references does not describe, teach or suggest “associating at least one identifier with said legacy media peripheral, wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location.” Much like the Final Office Action, the Advisory Action only cites **Haines at ¶¶ [0009], [0085] and [0086]** as disclosing these limitations. See December 9, 2008 Office Action at page 3 and February 25, 2009 Advisory Action at page 2. In response to the Applicants demonstrating that the portions of Haines relied on by the Office Action do not, in fact, describe, the relevant limitations, the Final Office Action summarily notes, **without supporting quotations from the references**, that the “combination of teaching between Haines, Cudak and Kirikoshi does teach the claimed subject matter that has been addressed in previous action and repeated here again.” See December 9, 2008 Office Action at page 2.

In responding to the Final Office Action, the Applicants specifically requested the Examiner recite exact quotations and citations from Haines to support the rejection. In particular, the Applicants stated the following:

If the Examiner persists in this rejection, the Applicants respectfully request that the Advisory Action specifically cite

and quote from the cited references as to where the limitations are allegedly disclosed so that the Applicants can address the specific citations in an Appeal Brief.

See February 10, 2009 Amendment at page 12. However, the Advisory Action merely lists the same paragraphs of Haines, namely ¶¶ [0009], [0085] and [0086], without any actual quotes from any of those paragraphs. See February 25, 2009 at page 2. Instead, the Advisory Action merely editorializes by offering numerous subjective statements regarding what these cited paragraphs allegedly disclose. See *id.* Again, though, the Examiner has not cited any specific text from Haines that describes, teaches or suggests the relevant limitations.

The Applicants once again respectfully request that the Examiner **specifically quote portions of Haines**, as opposed to offering subjective opinion and logical leaps (such as recited in the Advisory Action), that would tend to disclose the relevant claim limitations. The Applicants respectfully submit that the Examiner has not done so, nor will be able to, because, as explained above, the portions of Haines the Examiner relies upon, as well as the remainder of Haines, simply do not describe, teach or suggest “associating at least one identifier with said legacy media peripheral, **wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location**,” as recited in claim 1.

The Applicants respectfully submit that independent claim 1 is not rendered unpatentable over the proposed combination of references for at least the reasons discussed above. Independent claims 11 and 21 recite similar limitations to those

noted above. Therefore, the Applicants submit that claims 1, 11, 21 and the claims that depend therefrom are allowable over the cited references.

Additionally, the Office Action does not show where any of the cited references describe, teach or suggest a “legacy media peripheral,” as contemplated by the present application. That is, the Office Action has not shown where any of the references describe, teach or suggest a media peripheral that is in existence today but not fully compatible with the media exchange technology in accordance with aspects of the invention, *i.e.*, a legacy media peripheral (see present application at, *e.g.*, page 14, lines 5-15) in conjunction with the claim language as a whole. Thus, for at least this additional reason, the Applicants submit that the Office Action has not established a *prima facie* case of obviousness with respect to claims 1, 11, 21 and the claims that depend therefrom.

II. The Office Action Fails To Establish A Prima Facie Case Of Obviousness With Respect To Claims 2, 12 And 22 For An Additional Reason

Claim 2 recites, in part, “**requesting** said at least one legacy media peripheral identifier and at least one identifier of a user utilizing said legacy media peripheral.” Claims 12 and 22 recite similar limitations. The Office Action cites Haines at ¶¶ [0009] and [0025] as disclosing these limitations. See December 9, 2009 Office Action at pages 5 and 7. However, as shown below, these cited portions of Haines do not even suggest a “request,” let alone a request of at least one media peripheral identifier and at least one identifier of a user utilizing a legacy media peripheral.

First, Haines at ¶ [0009] states the following:

In accordance with another aspect of the present invention, an article of manufacture includes a computer usable medium having computer readable code embodied therein. The computer readable code is configured to cause a processor to determine that a status change has occurred in the peripheral device, combine a unique device identifier relevant to the peripheral device with the status change to form an electronic message and transmit the electronic message from an embedded web server contained in the peripheral device across a firewall.

Haines at ¶ [0009]. As shown above, this paragraph of Haines is completely devoid of any mention of a "request," let alone one of at least one media peripheral identifier and at least one identifier of a user utilizing a legacy media peripheral.

Next, Haines at ¶ [0025] states the following:

The term "PML" refers to Printer Management Language, which has been developed by the Hewlett-Packard Company of Palo Alto, Calif. Further description of PML can be found at <http://www.hp.com> or at <http://www.hpdevelopersolutions.com>, by entering a user name, a user selected password, and by joining a solutions provider program. More particularly, a PML Protocol Specification, Hewlett-Packard Company, Nov. 18, 1998, Revision 2.3 is available therein, and is hereby incorporated herein by reference.

Haines at ¶ [0025]. Similar to ¶ [0009] of Haines, this paragraph makes no mention or allusion to a request, much less one of at least one media peripheral identifier and at least one identifier of a user utilizing a legacy media peripheral.

Thus, for at least these reasons, the Office Action has not established a *prima facie* case of obviousness with respect to claims 2, 12 and 22.

III. CONCLUSION

For at least the reasons discussed above, the Applicants respectfully submit that the pending claims are allowable in all respects. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 1-31.

IV. PAYMENT OF FEES

The Commissioner is authorized to charge any necessary fees, including the \$540 fee for this Appeal Brief, the \$540 fee for the Notice of Appeal and the \$130 fee for the 1-month extension, or credit overpayment to Deposit Account 13-0017.

Dated: April 7, 2009

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A method for secure access and communication of information in a distributed media network, the method comprising:

detecting, at a first geographic location, when a legacy media peripheral is connected to one or both of a PC and a media processing system at said first geographic location within the distributed media network;

associating at least one identifier with said legacy media peripheral, wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location; and

utilizing said at least one identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.

2. The method according to claim 1, comprising requesting said at least one legacy media peripheral identifier and at least one identifier of a user utilizing said legacy media peripheral.

3. The method according to claim 2, wherein said at least one legacy media peripheral identifier is a serial number of said legacy media peripheral.

4. The method according to claim 2, wherein said at least one user identifier is one or both of a user password and/or a user name.

5. The method according to claim 2, comprising determining said first geographic location of said legacy media peripheral and said user utilizing said legacy media peripheral.

6. The method according to claim 5, comprising associating said legacy media peripheral identifier and said user identifier with said first geographic location of said legacy media peripheral.

7. The method according to claim 2, wherein if said legacy media peripheral is previously registered at said first geographic location within said network, acquiring said at least one user identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.

8. The method according to claim 7, comprising validating said acquired at least one user identifier for said legacy media peripheral prior to said facilitation of communication by and/or to said legacy media peripheral over the distributed media network.

9. The method according to claim 8, comprising registering said legacy media peripheral for operation at a second geographic location subsequent to said validation of said acquired at least one user identifier.

10. The method according to claim 1, comprising executing a media peripheral association software on said one or both of said PC and/or said media processing system.

11. A machine-readable storage having stored thereon, a computer program having at least one code section for secure access and communication of information in a distributed media network, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

detecting, at a first geographic location, when a legacy media peripheral is connected to one or both of a PC and a media processing system at said first geographic location within the distributed media network;

associating at least one identifier with said legacy media peripheral, wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location; and

utilizing said at least one identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.

12. The machine-readable storage according to claim 11, wherein said at least one code section comprises code for requesting said at least one legacy media peripheral identifier and at least one identifier of a user utilizing said legacy media peripheral.

13. The machine-readable storage according to claim 12, wherein said at least one legacy media peripheral identifier is a serial number of said legacy media peripheral.

14. The machine-readable storage according to claim 12, wherein said at least one user identifier is one or both of a user password and/or a user name.

15. The machine-readable storage according to claim 12, wherein said at least one code section comprises code for determining said first geographic location of said legacy media peripheral and said user utilizing said legacy media peripheral.

16. The machine-readable storage according to claim 15, wherein said at least one code section comprises code for associating said legacy media peripheral identifier and said user identifier with said first geographic location of said legacy media peripheral.

17. The machine-readable storage according to claim 12, wherein said at least one code section comprises code for acquiring said at least one user identifier to facilitate communication by and/or to said legacy media peripheral over the distributed

media network, if said legacy media peripheral is previously registered at said first geographic location within said network.

18. The machine-readable storage according to claim 17, wherein said at least one code section comprises code for validating said acquired at least one user identifier for said legacy media peripheral prior to said facilitation of communication by and/or to said legacy media peripheral over the distributed media network.

19. The machine-readable storage according to claim 18, wherein said at least one code section comprises code for registering said legacy media peripheral for operation at a second geographic location subsequent to said validation of said acquired at least one user identifier.

20. The machine-readable storage according to claim 11, wherein said at least one code section comprises code for executing a media peripheral association software on said at least one of said PC and said media processing system.

21. A system for secure access and communication of information in a distributed media network, the system comprising:

at least one processor operable to detect, at a first geographic location, when a legacy media peripheral is connected to one or both of a PC and a media processing system at said first geographic location within the distributed media network;

said at least one processor is operable to associate at least one identifier with said legacy media peripheral, wherein said at least one identifier is used to validate said legacy media peripheral for use at said first geographic location; and

said at least one processor is operable to utilize said at least one identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network.

22. The system according to claim 21, wherein said at least one processor is operable to request said at least one legacy media peripheral identifier and at least one identifier of a user utilizing said legacy media peripheral.

23. The system according to claim 22, wherein said at least one legacy media peripheral identifier is a serial number of said legacy media peripheral.

24. The system according to claim 22, wherein said at least one user identifier is one or both of a user password and/or a user name.

25. The system according to claim 22, wherein said at least one processor is operable to determine said first geographic location of said legacy media peripheral and said user utilizing said legacy media peripheral.

26. The system according to claim 25, wherein said at least one processor is operable to associate said legacy media peripheral identifier and said user identifier with said first geographic location of said legacy media peripheral.

27. The system according to claim 22, wherein said at least one processor is operable to acquire said at least one user identifier to facilitate communication by and/or to said legacy media peripheral over the distributed media network, if said legacy media peripheral is previously registered at said first geographic location within said network.

28. The system according to claim 27, wherein said at least one processor is operable to validate said acquired at least one user identifier for said legacy media peripheral prior to said facilitation of communication by and/or to said legacy media peripheral over the distributed media network.

29. The system according to claim 28, wherein said at least one processor is operable to register said legacy media peripheral for operation at a second geographic location subsequent to said validation of said acquired at least one user identifier.

30. The system according to claim 21, wherein said at least one processor is operable to execute a media peripheral association software on said one or both of said PC and/or said media processing system.

31. The system according to claim 21, wherein said at least one processor is one or more of a computer processor, a media peripheral processor, a media exchange system processor and/or a media processing system processor.

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EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) U.S. 2003/0072027 ("Haines"), entered into record by Examiner in January 10, 2007 Office Action.
- (2) U.S. 6,839,848 ("Kirkoshi"), entered into record by Examiner in January 10, 2007 Office Action.
- (3) U.S. 6,058,106 ("Cudak"), entered into record by Examiner in August 8, 2007 Office Action.

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RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

Not applicable.